



Neutral Citation Number: [2025] EWCA Civ 848

Case No: AC-2025-LON-002122

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
MR JUSTICE CHAMBERLAIN
AC-2025-LON-002122

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 4 July 2025

Before :

THE LADY CARR OF WALTON-ON-THE-HILL
LADY CHIEF JUSTICE OF ENGLAND AND WALES

LORD JUSTICE LEWIS

and

LORD JUSTICE EDIS

Between :

THE KING
(ON THE APPLICATION OF HUDA AMMORI)
- and -
SECRETARY OF STATE FOR THE HOME
DEPARTMENT

Appellant

Respondent

**Raza Husain KC, Blinne Ní Ghrálaigh KC, Paul Luckhurst, Owen Greenhall, Audrey
Cherryl Mogan, Mira Hammad and Grant Kynaston (instructed by Birnberg Peirce
Solicitors and Kellys Solicitors) for the Appellant**

**Ben Watson KC, Andrew Deakin, Will Hays, Stephen Kosmin and Karl Laird (instructed
by the Government Legal Department) for the Respondent**

Hearing date : 4 July 2025

APPROVED JUDGMENT
(subject to editorial corrections)

Lady Carr CJ, Lord Justice Lewis and Lord Justice Edis :

INTRODUCTION

1. This is an application for permission to appeal against a decision of Chamberlain J (“the judge”) refusing interim relief. The application is aimed at preventing an order of the Secretary of State for the Home Department (“the Secretary of State”) adding Palestine Action to the list of proscribed organisations (“the Order”) under the Terrorism Act 2000 (“the Act”) from taking effect tomorrow.
2. Palestine Action is a group or network formed about five years ago which is concerned with taking action against companies and institutions in the United Kingdom which are said by them to be involved in what Palestine Action consider are violations of international law against Palestinians. Members or supporters of Palestine Action are accused, amongst other things, of breaking into a RAF base in the early hours of 20 June 2025 and damaging two military aircraft. Following that incident, on 23 June 2025, the Secretary of State announced that she had decided to proscribe Palestine Action (“the Decision”).
3. The Order was laid before, and approved by, each House of Parliament on 2 and 3 July 2025. It was made by the Secretary of State today, on 4 July 2025, and so comes into force tomorrow (ie after midnight tonight).
4. The claimant, Huda Ammori, is a member and founder of Palestine Action. On 27 June 2025 she commenced a claim for judicial review of the decision to proscribe Palestine Action. Following a directions hearing before the judge on 2 July 2025, there is to be an oral hearing of the application for permission to bring that claim in the week commencing 21 July 2025.
5. At the same time as commencing proceedings, the claimant also sought interim relief preventing the making of the Order until the outcome of the claim for judicial review (“the interim relief application”).
6. In summary, the relevant principles governing the grant of interim relief are set out in the decision of the House of Lords in *American Cyanamid Co v Ethicon Ltd* [1975] AC 396, namely:
 - (1) is there a serious issue to be tried?; If so,
 - (2) would damages be an adequate remedy for the claimant if an interim injunction were refused? It is generally accepted in public law cases, that damages are rarely an adequate remedy and the courts will usually need to go on to consider a third question namely:
 - (3) does the balance of convenience favour the grant or refusal of an interim injunction? The court is concerned with balancing the risk of prejudice to the claimant if an interim injunction is refused against the prejudice, including the prejudice to the wider public interest, if an interim injunction is granted.
7. The judge considered the interim relief application at a hearing today, Friday 4 July 2025. He refused the order sought in a written judgment handed down at 5.30pm, and also refused permission to appeal (and a stay pending the outcome of any renewed

application). The claimant now renews her application for permission to appeal before us. Permission to appeal may be given only where the court considers that the appeal would have a real prospect of success or there is some other compelling reason for the appeal to be heard (see CPR 52.6(1)).

8. The application came before us on an urgent out of hours basis at around 6 pm. We received written grounds of appeal at around 7.35pm and heard oral submissions for an hour commencing at 8.05pm. This judgment is being delivered at 10.25pm.
9. Before addressing the specific issues that arise on this appeal, we make the following preliminary observations. First, the role of the Court is simply to interpret and apply the law. The merits of the underlying decision to proscribe a particular group is not a matter for the Court. That is a matter, under the relevant Act of Parliament, for the Secretary of State, who is accountable to Parliament for the decisions that she makes. Similarly, it is not a matter for this Court to express any views on whether or not the allegations or claims made by Palestine Action are right or wrong. This Court is simply concerned with applying the law laid down by Act of Parliament and the principles of law developed by the courts.
10. Secondly, this is an (application for permission to) appeal against a decision of the judge refusing interim relief. The role of this Court on appeal is not the same as the role of the High Court at first instance. We do not sit to hear the case afresh, or to substitute our own views for those of the judge. Our role as an appellate court is limited to determining whether the judge erred in law or whether his decision was one that was reasonably open to him: see the judgment in this Court in *R (Public and Commercial Services Union and others) v Secretary of State for the Home Department* [2022] EWCA Civ 840 (“PCSU”) at [6].

THE LEGAL FRAMEWORK

11. The statutory framework can be set out shortly. Section 3 of the Act provides that an organisation is proscribed if it is listed in Schedule 2 of the Act. The Secretary of State may by order add an organisation to the list in Schedule 2 but may only exercise that power in respect of an organisation that is concerned in terrorism. Section 3(5) provides that an organisation is concerned in terrorism if it:
 - “(a) commits or participates in acts of terrorism,
 - (b) prepares for terrorism,
 - (c) promotes or encourages terrorism, or
 - (d) is otherwise concerned in terrorism.”
12. Terrorism, for the purposes of the Act, is defined by section 1 of the Act to mean the use or threat of specified action which is designed to influence the government, or an international government organisation, or to intimidate the public or a section of it. Section 1(2) provides that the action must be action which:
 - “(a) involves serious violence against a person,
 - (b) involves serious damage to property,

(c) endangers a person's life, other than that of the person committing the action,

(d) creates a serious risk to the health or safety of the public or a section of the public, or

(e) is designed seriously to interfere with or seriously to disrupt an electronic system”.

13. It is a criminal offence to belong to a proscribed organisation or to invite support for such an organisation (see sections 11 and 12 of the Act). There are further offences concerned with, among other things, the wearing of clothing, or the wearing and display of articles, or publishing images of such items which arouses reasonable suspicion that a person is a member of a proscribed organisation (see section 13 of the Act).
14. Before making an order adding an organisation to the list of proscribed organisations, a draft order must be laid before, and approved by, each House of Parliament: (see section 123(4) of the Act).
15. There is provision for the organisation to apply to be de-proscribed, that it to be removed from the list of proscribed organisations. There is an appeal against a refusal to de-proscribe which is heard by a commission known as the Proscribed Organisation Appeals Commission (POAC): (see section 5 of the Act).

THE FACTUAL BACKGROUND TO THE APPEAL

16. As indicated, Palestine Action is an organisation concerned with taking action against companies and institutions in the United Kingdom which are said by them to be involved in activities which Palestine Action see as giving rise to violations of international law.
17. By a written statement made on 23 June 2025, the Secretary of State said that she had decided to proscribe Palestine Action and would be laying a draft order before Parliament to that effect. The statement said this:

“Since its inception in 2020, Palestine Action has orchestrated a nationwide campaign of direct criminal action against businesses and institutions, including key national infrastructure and defence firms that provide services and supplies to support Ukraine, the North Atlantic Treaty Organisation (NATO), “Five Eyes” allies and the UK defence enterprise. Its activity has increased in frequency and severity since the start of 2024 and its methods have become more aggressive, with its members demonstrating a willingness to use violence. Palestine Action has also broadened its targets from the defence industry to include financial firms, charities, universities and government buildings. Its activities meet the threshold set out in the statutory tests established under the Terrorism Act 2000. This has been assessed through a robust evidence-based process, by a wide range of experts from across government, the police and the Security Services.”

18. The written statement also said:

“It is vitally important that those seeking to protest peacefully, including pro-Palestinian groups, those opposing the actions of the Israeli government, and those demanding changes in the UK’s foreign policy, can continue to do so. The right to peaceful protest is a cornerstone of our democracy. Should Parliament vote to proscribe, that right will be unaffected.”

The Claim for Judicial Review

19. The claimant issued a claim for judicial review of the decision to make the proposed Order. She advances multiple grounds for claiming that the proscription of Palestine Action would exceed the powers given by Parliament to the Secretary of State. In summary, she contends that the power to proscribe organisations does not extend to organisations engaged in direct action amounting to civil disobedience as they fall outside the definition of bodies concerned in terrorism, or that the power to proscribe is being used for an improper purpose. She also contends that the Secretary of State failed to have regard to relevant considerations, or had regard to irrelevant ones, or that her decision is irrational. She also contends that the proposed Order will contravene section 6 of the Human Rights Act 1998, which provides that it is unlawful for a public authority to act in a way which is incompatible with rights protected under the Convention for the Protection of Human Rights and Fundamental Freedoms. Those rights include rights to freedom of expression, freedom of thought conscience and religion, freedom of association, respect for private and family life, and property rights. The claimant makes other claims, including that the Secretary of State is acting in breach of her own policy on proscription, or failed to have due regard to equality considerations or acted in a way that was procedurally unfair.
20. The claimant also applied for interim relief to prevent the making of the order. By the time that that application was considered by the High Court, the proposed Order had been laid before, and approved by, each House of Parliament. We are told that the Secretary of State made the Order at some stage today. The application, therefore, focussed on seeking interim relief which would prevent the Order from having effect until the determination of the claim for judicial review.

THE JUDGMENT BELOW

21. The hearing before the judge today lasted until around 3.15pm. He gave a full written judgment at 5.30pm. We pay tribute to the quality of the judgment, particularly given the extreme pressures of time, the range of arguments and the volume of material put before the judge.
22. In essence, the judge held:
- (1) That the court had jurisdiction to make an order, possibly an interim declaration, which would effectively suspend the Order until some future date;
 - (2) That the claimant’s grounds contained at least one serious issue to be tried, namely that the Order is a disproportionate interference with the rights of the claimant and others under Articles 10 and 11 ECHR. Certain other grounds might also raise

serious issues to be tried, but were not obviously well-founded and their ultimate prospects were at this stage difficult to assess. Some might be affected by evidence from the Secretary of State, OPEN and/or CLOSED, to be filed in due course. If the Secretary of State's alternative remedy point (ie that the claimant has an adequate alternative remedy through POAC) was a good one, it might provide an answer to all of the claimant's grounds.

23. He then went on to assess the balance of convenience. He considered first the harm that would ensue if interim relief were granted and the claim were later to fail. There was no doubt that the Order had been made on national security grounds. In the national security context, where interim relief would expose the public to increased risk even for a short period, the applicant needed to point to something "very compelling" to outweigh the public interest in allowing the Secretary of State to make the Order. On the facts of this case, if the written ministerial statement and Explanatory Memorandum were taken at face value, suspending the effect of the Order even for a short period would deny the public important protections which the Order was intended to confer.
24. The judge then considered the harm that would ensue if interim relief were refused and the claim later succeeded. In his judgment, the claimant and others had overstated in their evidence some of the potential consequences of the Order. It would remain lawful for the claimant and other persons who were members of Palestine Action prior to proscription to continue to express their opposition to Israel's actions in Gaza and elsewhere, including by drawing attention to what they regard as Israel's genocide and other serious violations of international law. They would remain legally entitled to do so in private conversations, in print, on social media and at protests. Even if their protests took the form of direct action involving criminality, the fact that they were previously members of an organisation which is now proscribed would not as a matter of law aggravate their criminal conduct. They could not incur criminal liability based on their past association with a group which was not proscribed at the time.
25. He recognised that there would be serious consequences if the Order came into effect immediately and interim relief refused. He identified criminal liability for anyone choosing to continue to express their support for Palestine Action. But, he stated, it would be wrong to accord significant weight in the balance to the interests of those who plan deliberately to flout the law. He referred to the danger of those unaware of the Order unwittingly committing an offence; and to other possible effects, in terms of deleting contact lists and other key information, social stigma and possible adverse consequences in places of education or at work (although not indelible). He noted that "the broad criminal prohibitions imposed by the 2000 Act, and the very long sentences potentially available for breach of them, can cast a long shadow over legitimate speech". This, however, he stated, was the inherent consequence of a regime which aims to disrupt and disable organisations which meet the threshold for proscription and which the Secretary of State and Parliament decide to proscribe.
26. The judge concluded as follows:

"Having read the claimant's evidence and that of the UN Special Rapporteur carefully, and taken note of the oral submission[s] made, I have concluded that the harm which would ensue if interim relief is refused but the claim later succeeds is insufficient to outweigh the strong public interest in maintaining the order in force.

In reaching this decision I have borne in mind my assessment of the merits of the claim at this early stage.”

THE GROUNDS OF APPEAL

27. The grounds of appeal are as follows in summary:

(1) Ground 1

The Court erred in law in finding that it would be wrong to accord significant weight in the balance to the interests of those who deliberately to flout the law, because the hypothesis on which interim relief needs to be approached is by assessing the balance of convenience on the hypothetical in which the Claimant is successful.

(2) Ground 2

The Court erred in law in finding (at Judgment §98) that it would be wrong to accord significant weight in the balance to the interests of those who deliberately to flout the law, because those acts themselves attract the protection of Articles 10 and 11 ECHR.

(3) Ground 3

The Judge erred in accepting that there was a national security justification outweighing the prejudice to those adversely affected by the order, in circumstances where the Home Secretary filed no evidence addressing why introduction of the order was urgent in circumstances where there are extensive existing powers and the Home Secretary had waited several months to introduce the measure.

(4) Ground 4

The Court erred in law in its approach to Article 10 and 11 ECHR in respects beyond those identified in Ground 2.

(5) Ground 5

The Court erred in considering that the availability of an appeal to POAC was a hurdle which the Claimant would in due course have to surmount.

ANALYSIS

Relevant principles

28. The relevant legal principles are as follows. The Court has power to grant interim injunctions in judicial review cases by reason of sections 31 and 37 of the Senior Courts Act 1981.
29. The principles governing the grant or refusal of interim relief in public law cases have been reviewed by this Court in *PCSU*. There the claim was that the government’s policy of removing asylum seekers to Rwanda so that their asylum claims would be determined there. The High Court refused an application by certain individuals for an order preventing their removal to Rwanda until determination of their claim for judicial review of the lawfulness of the policy. On appeal, the Court of Appeal summarised the relevant principles governing such cases in the following way.
30. The court must first be satisfied that the claim does raise a serious issue to be tried. The current approach of the courts in public law cases, where it is alleged that a decision is

unlawful, is to consider whether there is a real prospect that a claimant would ultimately succeed in the claim for interim relief. On occasions, the courts have indicated that they may be reluctant to grant interim relief in the absence of a strong *prima facie* case that the public body was acting unlawfully (see, e.g., the dicta of Lindblom LJ, with whom Sir Geoffrey Vos C and Henderson LJ agreed, in *R (Governing Body of X) v Officer for Standards in Education* [2020] EWCA Civ 594 at [66]).

31. If there is a serious issue to be tried, the courts next consider whether damages would be an adequate remedy for the claimant if an interim injunction were refused. Generally, in public law cases, the adequacy of damages will rarely determine whether or not it is appropriate to grant an injunction.
32. Finally, the courts must consider the balance of convenience. As this Court explained in *PCSU*, that involves balancing the risk of prejudice to the parties (see [78] and [79]). We would add that, in public law cases, the courts will need to have regard to the wider public interest, including the interest in the executive government being able to give effect to a policy, particularly where the relevant draft order has been before, and approved by, Parliament.
33. Furthermore, in this case, we repeat that we are dealing with an (application for permission to) appeal against a decision of a High Court judge. The nature of an appeal is governed by CPR 52.21(1) and, in general, is by way of review not a rehearing. There are two grounds upon which an appeal will be allowed: if the decision of the lower court was wrong or unjust because of a serious procedural irregularity (see CPR 52.21(3)). The former is the relevant ground here, namely whether the decision of the judge was wrong. As emphasised in *PCSU*, it is only if the decision of the judge below was wrong in law, or if the decisions reached were not ones open to the judge on the evidence. It is not for this court to substitute its own discretion for that of the judge (see [82] to [84]).

Assessment of the judge's decision

34. Given the available time, our reasons must of necessity be short and limited to the central points as we understand them. There has been no challenge to the judge's approach in principle on the question of balance of convenience in cases such as this involving national security. The judge followed that set out in *AG v BBC* [2022] EWGC 826 (QB); [2022] 4 WLR 74 at [29] to [33] and summarised in *R (on the application of FTDI Holding Ltd) v Chancellor of the Duchy of Lancaster* [2025] EWHC 241 (Admin) at [40]: where one of the public interests is national security, the court must show great respect to the judgment of the executive about whether the relevant risk is made out and about the weight to be attached to it. In many cases, it may be difficult to find interests sufficiently weighty to outweigh the public interest in national security.
35. Grounds 1 and 2 can be taken together. Both seek to attack the judge's finding in [98]. [97] and [98] of the judgment provided as follows:

“97. It will remain lawful for the claimant and other persons who were members of PA prior to proscription to continue to express their opposition to Israel's actions in Gaza and elsewhere, including by drawing attention to what they regard as Israel's genocide and other serious violations of international law. They will remain legally entitled to do so in private conversations, in print, on social media and at

protests. Even if their protests take the form of direct action which involves criminality, the fact that they were previously members of an organisation which is now proscribed would not as a matter of law aggravate their criminal conduct. It follows that it is hyperbole to talk of the claimant or others being “gagged” in this respect (as the claimant has alleged). They could not incur criminal liability based on their past association with a group which was not proscribed at the time.

98. That said, there is no doubt that there will be serious consequences if the order comes into effect immediately and interim relief is refused. If individuals choose to continue to express their support for PA, or do any of the other things set out in [33] or [35] above, they will incur criminal liability. It will be for them to decide whether to do so. This, however, is the intended effect of the order. It is how it achieves its aim of disrupting the activities of the proscribed organisation. It would be wrong to accord significant weight in the balance to the interests of those who plan deliberately to flout the law.”

36. It is said that the judge was wrong not to accord significant weight in the balance to the interests of those who deliberately flouted the law.
37. The criticism is misconceived. First, as the heading of the material section reveals, the judge expressly approached the question of harm on the basis that the claim later succeeded. That is clear from the heading of the material section of the judgment and also implicit or express throughout the section (see for example also [101]).
38. It is trite that an order that may in due course be set aside is nevertheless there to be obeyed until it is set aside. The judge was entitled to take the view that the harm identified, including criminal liability with associated consequences, would be the product of an individual’s decision not to comply with the Order, and so to be given only limited weight.
39. Secondly, there was no failure on the part of the judge to recognise the application of Article 10 and 11 rights. Paragraph 98 needs to be read with paragraph 97 where the judge explained that it will remain lawful for the claimant, and others, “to continue to express their opposition to Israel’s actions in Gaza and elsewhere”. What will be prohibited is particular activity supporting a proscribed organisation. The judge rightly said that if “individuals choose to continue to express their support for PA or do the other things” identified earlier in his judgment, this will incur criminal liability. The short point is that, if the harm envisaged is to occur, the claimant or others will have deliberately chosen to express their support for a proscribed organisation, or to commit one of the other offences.
40. As for Ground 3, the claimant submits that the judge erred in rejecting the application in circumstances where the Secretary of State failed to provide any evidence that there was any urgency. She had been told in March 2025 of any alleged risk and had had ample opportunity to provide evidence, including again this morning. The submission is in effect that the balance of convenience should take into account the lack of prejudice arising from the short period of delay resulting from the grant of interim relief.
41. There is no merit in this ground. The judge was well aware of the chronology, including that Palestine Action had been active since 2020 and the decision to proscribe was based on an assessment first made in March 2025. He addressed the suggestion of delay at

[95], giving it “some weight”, but concluding that “suspending the effect of the order even for a short period would deny the public important protections which the order is intended to confer”. That conclusion is unimpeachable on appeal. We note also that the Secretary of State acted promptly and with urgency following the immediate trigger events of 20 June 2025.

42. Ground 4 has a number of strands, which we address as follows. First, it is said that the judge assessed the balance of convenience by reference to evidence that might be adduced in future rather than an assessment of the evidence before the court. This is based on paragraph 73 of the judgment where the judge said that it was difficult to evaluate the strength of the challenge based on Articles 10, 11, and 14 particularly as later evidence may put a different complexion on the arguments about proportionality. It is said that he should have assessed the strength of the current evidence. In fact, when the judge considered the balance of convenience later in the judgment he did not rely on the possibility of further evidence emerging. At most he bore “in mind the merits of the claim on the basis of the evidence at this early stage.”
43. Then it is submitted that the judge failed to have regard to a number of factors including the chilling effect of any order, the effect on employment, education and liberty, the fact that the Order was insufficiently clear and might lead to people self-censoring or inadvertently committing criminal acts. In fact, the judge identified all the relevant considerations: see his careful analysis at [96] to [101].
44. It is further said that it is wrong to penalise some because of the actions of others. It is said that if some Palestine Action supporters engage in violent acts, that does not justify the taking away of the rights of others. The position is, however, that no person will be penalised in respect of conduct prior to proscription. People may only be prosecuted and punished for acts they engaged in after the proscription came into force. Furthermore, they will still have the rights to lawful protest as the judge recognised in [97].
45. The claimant referred to other disparate matters, including the fact that even a short period of prohibition may give rise to a violation of a convention right and that the timing of the ban may be relevant., relying on *Christian Democratic People’s Party v. Moldova* (2007) 45 EHRR 13. None of those matters, on the facts of this case causes us to think that the judge made any error. We note that the *Christian Democratic People’s Party* case arose on very different facts.
46. In short, none of the points raised in Ground 4 either individually or collectively demonstrate any arguable error on the part of the judge.
47. Ground 5 criticises the judge for finding that the availability of an appeal to POAC was a hurdle which the claimant would in due course have to surmount. In fact, the judge said only that, if the Secretary of State’s alternative remedy was a good one, it “may” provide an answer to all of the grounds. It is difficult to see why that was an error of law and in any event impossible to see the comment had any material impact on the outcome of the balancing exercise.
48. Fundamentally, the judge identified all relevant factors and weighed them together in the balance, according significant weight to the public interest in national security, as he was not only entitled but right to do. He recognised that this was a case “involving

those who use or threaten action which involves serious damage to property but do not target or aim to endanger people” (see [64] and also [93]). He noted that the Explanatory Memorandum indicated that the activity was increasing in frequency and severity since 2024, with more aggressive methods. He was entitled to conclude that some of the fears and potential consequences of the Order had been overstated by the claimant and others.

49. In short, there is no basis for appellate interference with the judge’s assessment that the balance of convenience lay in favour of refusing interim relief.

CONCLUSION

50. We identify no arguable error of law in the judgment. Nor do we find any arguable basis for a finding that his decision was not one open to him on the evidence. For these reasons, we conclude that there is no real prospect of a successful appeal and no other compelling reason why an appeal should be heard.
51. Permission to appeal is refused.
52. Finally, it would be wrong for us to leave court now without repeating our thanks to the court and administrative staff, and our clerks, who have made this evening’s hearing possible.